

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JEFFREY LEE PARSON,

Defendant.

NO. CR03-379P

PLEA AGREEMENT

The United States of America, by and through John McKay, United States Attorney for the Western District of Washington, and Annette L. Hayes, Assistant United States Attorney for said District, and the defendant, JEFFREY LEE PARSON, and his attorneys, Carol Koller and Nancy Tenney, enter into the following Plea Agreement, pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C):

1. The Charges. Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter a plea of guilty to intentionally causing and attempting to cause damage to a protected computer, as charged in Count One of the Indictment, in violation of Title 18, United States Code, Sections 1030(a)(5)(A)(i), 1030(a)(5)(B)(i), 1030(b), and 1030(c)(4)(A). By entering this plea of guilty, Defendant hereby waives all objections to the form of the charging document.

2. Elements of the Offense. The elements of the offense of intentionally causing and attempting to cause damage to a protected computer, in violation of

1 Title 18, United States Code, Sections 1030(a)(5)(A)(i), 1030(a)(5)(B)(i), 1030(b), and  
2 1030(c)(4)(A), as charged in Count One of the Indictment, are as follows:

3 a. First, Defendant knowingly caused and attempted to cause the  
4 transmission of a program, information, code and command to computers without  
5 authorization;

6 b. Second, as a result of the transmission, Defendant intentionally  
7 impaired the integrity and availability of data, a program, a system and information;

8 c. Third, the impairment of the data, program, system and information  
9 resulted in losses to one or more persons totaling at least \$5,000 in value during a one-year  
10 period; and

11 d. Fourth, the computers damaged were used in interstate or foreign  
12 commerce or communication.

13 3. The Penalties. Defendant understands that the statutory penalties for the  
14 offense of intentionally causing and attempting to cause damage to a protected computer,  
15 as charged in Count One, are imprisonment for up to ten (10) years, a fine of up to two  
16 hundred fifty thousand dollars (\$250,000.00), a period of supervision following release  
17 from prison of between two (2) to three (3) years, and a one hundred dollar (\$100.00)  
18 penalty assessment. If defendant receives a sentence of probation, the probationary period  
19 could be up to five (5) years. Defendant agrees that the penalty assessment shall be paid at  
20 or before the time of sentencing.

21 Defendant understands that in addition to any term of imprisonment and/or  
22 fine that is imposed, the Court may order Defendant to pay restitution to any victim of the  
23 offense, as required by law. Defendant further understands that a consequence of pleading  
24 guilty may include the forfeiture of certain property either as a part of the sentence  
25 imposed by the Court, or as a result of civil judicial or administrative process.

26 Defendant agrees that any monetary penalty the Court imposes, including the  
27 special assessment, fine, costs or restitution, is due and payable immediately, and further  
28 agrees to submit a completed Financial Statement of Debtor form as requested by the

1 United States Attorney's Office.

2 Defendant understands that supervised release is a period of time following  
3 imprisonment during which he will be subject to certain restrictions and requirements.  
4 Defendant further understands that if supervised release is imposed and he violates one or  
5 more of its conditions, he could be returned to prison for all or part of the term of  
6 supervised release that was originally imposed. This could result in Defendant serving a  
7 total term of imprisonment greater than the statutory maximum stated above.

8 4. Rights Waived by Pleading Guilty. Defendant understands that, by pleading  
9 guilty, he knowingly and voluntarily waives the following rights:

- 10 a. The right to plead not guilty, and to persist in a plea of not guilty;
- 11 b. The right to a speedy and public trial before a jury of Defendant's  
12 peers;
- 13 c. The right to the effective assistance of counsel at trial, including, if  
14 Defendant could not afford an attorney, the right to have the Court appoint one for  
15 Defendant;
- 16 d. The right to be presumed innocent until guilt has been established at  
17 trial, beyond a reasonable doubt;
- 18 e. The right to confront and cross-examine witnesses against Defendant;
- 19 f. The right to compel or subpoena witnesses to appear on Defendant's  
20 behalf;
- 21 g. The right to testify or to remain silent at trial, at which such silence  
22 could not be used against Defendant; and
- 23 h. The right to appeal a finding of guilt or any pretrial rulings.
- 24 i. The right, to the extent required by law, to have sentencing factors  
25 charged in the Indictment or determined by a jury beyond a reasonable doubt.

26 5. United States Sentencing Guidelines. Defendant understands and  
27 acknowledges that, absent applicable intervening law:

- 28 a. The United States Sentencing Guidelines (hereinafter "Sentencing

Guidelines”), promulgated by the United States Sentencing Commission, are applicable to this case;

b. The Court will determine Defendant's applicable Sentencing Guidelines range at the time of sentencing; and

c. Except as provided in paragraph 9. below, Defendant may not withdraw a guilty plea solely because of the sentence imposed by the Court.

6. Ultimate Sentence. Defendant acknowledges that no one has promised or guaranteed what sentence the Court will impose.

7. Restitution. Defendant shall make restitution to Microsoft Corporation and any other victims in an amount to be determined at the time of sentencing. Said amount shall be due and payable immediately and shall be paid in accordance with a schedule of payments as ordered by the Court.

8. Statement of Facts. The parties agree on the following facts in support of Defendant’s guilty plea and sentencing. Defendant admits he is guilty of the charged offense and expressly waives any right to have these facts determined by a jury beyond a reasonable doubt.

a. JEFFREY LEE PARSON learned about the MS Blaster worm via the Internet web site www.antivirus.com. PARSON learned that the MS Blaster worm was designed to randomly spread and infect individual computers with code that then directed the infected computers to launch a DDoS against Microsoft Corporation’s web site windowsupdate.com at various pre-programmed dates and times, beginning on August 16, 2003. PARSON obtained a copy of the MS Blaster worm from a computer he had access to because he had previously infected it with a back door remote access program. PARSON downloaded the worm to his home computer, and edited it.

b. JEFFREY LEE PARSON created a new version of the MS Blaster worm. PARSON’s version of the MS Blaster worm is known by various names including the “B” or “teekids” variant. PARSON’s worm will hereinafter be referred to as “the B variant of the MS Blaster worm.”

1 c. The B variant of the MS Blaster worm includes, among other things:  
2 (1) a version of the original MS Blaster worm renamed "teekids.exe;" and (2) a Lithium  
3 back door software program that when installed on an infected computer, allows anyone  
4 who knows it is there to freely access the infected computer and operate it remotely.  
5 JEFFREY LEE PARSON included the Lithium back door remote access software as part  
6 of his worm so that he could reconnect to the infected computers at a later time.

7 d. On or about August 12, 2003, JEFFREY LEE PARSON knowingly  
8 caused the transmission of a program, information, code and command, onto the Internet,  
9 that is, the B variant of the MS Blaster worm. In particular, JEFFREY LEE PARSON  
10 released the B variant of the MS Blaster worm from his home computer, in Hopkins,  
11 Minnesota, onto approximately fifty (50) computers he had previously compromised with  
12 the Lithium back door remote access program.

13 e. The B variant of the MS Blaster worm that JEFFREY LEE PARSON  
14 created was propagated across the Internet in two distinct generations. The first generation  
15 propagated the entire worm (including "teekids.exe" and the Lithium back door). The first  
16 generation of the B variant of the MS Blaster worm directed each of the infected  
17 computers to contact JEFFREY LEE PARSON's web site at www.t33kid.com so that he  
18 could maintain a list of the computers that had the Lithium back door remote access  
19 software installed on them. The second generation propagated just the renamed version of  
20 the MS Blaster worm (i.e., "teekids.exe" without the Lithium back door) via the  
21 propagation tool found in the original MS Blaster worm.

22 f. By August 16, 2003, approximately 1222 IP addresses logged in at  
23 JEFFREY LEE PARSON's web site www.t33kid.com. Each IP address corresponds to a  
24 computer that was infected with the B variant of the MS Blaster worm (i.e., the entire  
25 worm including the Lithium back door). The parties do not agree as to the number of  
26 computers represented by the 1222 IP addresses.

27 g. As a result of his transmission of the B variant of the MS Blaster  
28 worm, JEFFREY LEE PARSON intentionally impaired the integrity and availability of

1 data, a program, a system, and information, in two ways: (1) by infecting computers  
2 connected to the Internet with the B variant of the MS Blaster worm; and (2) thereby  
3 launching a DDoS attack against Microsoft Corporation's web site windowsupdate.com  
4 from those infected computers, on or about August 16, 2003, and the other pre-  
5 programmed dates and times. The DDoS attacks caused by the B variant of the MS  
6 Blaster worm did not succeed in shutting down Microsoft's web site. Microsoft was able  
7 to respond to the attacks in a number of ways in the days leading up to the first attack, on  
8 or about August 16, 2003.

9 h. The impairment of the data, program, system and information caused  
10 by the B variant of the MS Blaster worm resulted in losses to Microsoft Corporation and  
11 the owners of the computers infected by the B variant of the MS Blaster worm (including  
12 the computers represented by the IP addresses registered on JEFFREY LEE PARSON's  
13 web site www.t33kid.com) totaling at least \$5,000 in value during a one-year period  
14 beginning on August 12, 2003.

15 i. The computers damaged by the B variant of the MS Blaster worm  
16 were used in interstate or foreign commerce or communication.

17 j. The B variant of the MS Blaster worm infected 50 or more victim  
18 computers.

19 8. Sentencing. Pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal  
20 Procedure, the parties acknowledge and agree that Defendant should be sentenced to a  
21 term of imprisonment of not less than eighteen (18) months, and not more than thirty-  
22 seven (37) months. If the sentencing court does not adopt the agreement of the parties and  
23 instead imposes a sentence outside the agreed upon range, both Defendant and the United  
24 States reserve the right to withdraw from this agreement pursuant to Rule 11(c)(1)(C) of  
25 the Federal Rules of Criminal Procedure and to proceed to trial. No other agreement has  
26 been made with regard to the imposition of sentence in this matter, and the parties  
27 understand that the Court retains full discretion to impose a sentence within the range  
28 agreed to above. Further, the parties understand that the Court retains full discretion with

1 regard to the imposition of a term of supervised release, the conditions of supervised  
2 release, fines, forfeiture, or restitution, as may be applicable.

3 9. Non-Prosecution of Additional Offenses. As part of this Plea Agreement,  
4 the United States Attorney's Office for the Western District of Washington agrees not to  
5 prosecute Defendant for any additional offenses known to it as of the time of this Plea  
6 Agreement that are based upon evidence in its possession at this time, or that arise out of  
7 the conduct giving rise to this investigation. In this regard, Defendant recognizes that the  
8 United States has agreed not to prosecute all of the criminal charges that the evidence  
9 establishes were committed by Defendant solely because of the promises made by  
10 Defendant in this Plea Agreement. Defendant acknowledges and agrees, however, that for  
11 purposes of preparing the Presentence Report, the United States Attorney's Office will  
12 provide the United States Probation Office with evidence of all relevant conduct  
13 committed by Defendant.

14 10. Voluntariness of Plea. Defendant acknowledges that he has entered into this  
15 Plea Agreement freely and voluntarily, and that no threats or promises, other than  
16 the promises contained in this Plea Agreement, were made to induce Defendant to enter  
17 this plea of guilty.

18 11. Statute of Limitations. In the event that this Plea Agreement is not accepted  
19 by the Court for any reason, or Defendant has breached any of the terms of this Plea  
20 Agreement, the statute of limitations shall be deemed to have been tolled from the date of  
21 the Plea Agreement to: (1) 30 days following the date of non-acceptance of the Plea  
22 Agreement by the Court; or (2) 30 days following the date on which a breach of the Plea  
23 Agreement by Defendant is discovered by the United States Attorney's Office.

24 12. Acceptance of Responsibility. The United States acknowledges that  
25 Defendant has assisted the United States by timely notifying the authorities of his intention  
26 to plead guilty, thereby permitting the United States to avoid preparing for trial and  
27 permitting the Court to allocate its resources efficiently. If at the time of sentencing, the  
28 United States remains satisfied that Defendant has accepted responsibility, then it will

1 recommend a sentence that takes this acceptance of responsibility into consideration.

2 Defendant understands and agrees that the United States will base its recommendation on  
3 the factors set forth in the United States Sentencing Guidelines, including Section 3E1.1.

4 13. Post-Plea Conduct. Defendant understands that the terms of this Plea  
5 Agreement apply only to conduct that occurred prior to the execution of this Agreement.  
6 If, after the date of this Agreement, Defendant should engage in illegal conduct, or  
7 conduct that is in violation of his conditions of release (examples of which include, but are  
8 not limited to: obstruction of justice, failure to appear for a court proceeding, criminal  
9 conduct while pending sentencing, and false statements to law enforcement agents, the  
10 Pretrial Services Officer, Probation Officer or Court), the United States is free under this  
11 Agreement to seek a sentence that takes such conduct into consideration. Such a sentence  
12 could include, to the extent the United States Sentencing Guidelines are applicable, a  
13 sentencing enhancement or upward departure.

14 14. Completeness of Agreement. The United States and Defendant  
15 acknowledge that these terms constitute the entire Plea Agreement between the parties.

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1 This Plea Agreement only binds the United States Attorney's Office for the Western  
2 District of Washington. It does not bind any other United States Attorney's Office or any  
3 other office or agency of the United States, or any state or local prosecutor.

4 DATED this \_\_\_\_ day of August, 2004.

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7 \_\_\_\_\_  
8 JEFFREY LEE PARSON  
9 Defendant

10 \_\_\_\_\_  
11 CAROL KOLLER  
12 Attorney for Defendant

13 \_\_\_\_\_  
14 NANCY TENNEY  
15 Attorney for Defendant

16 \_\_\_\_\_  
17 FLOYD G. SHORT  
18 Assistant United States Attorney

19 \_\_\_\_\_  
20 ANNETTE L. HAYES  
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